REMARKS

Summary Of The Office Action & Formalities

Claims 1-8 and 10 are all the claims pending in the application. By this Amendment, Applicant is amending claims 1, 4, and 8 and adding new claims 11-18. No new matter is added.

The prior art rejections are summarized as follows:

1. Claims 1-8 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brakarz et al. in view of Schneider, as evidenced by Dobbs et al.

Applicant respectfully traverses.

Claim Rejections - 35 U.S.C. § 103

1. Claims 1-8 And 10 Over Brakarz et al. In View Of Schneider, As Evidenced By Dobbs et al.

In rejecting claims 1-8 and 10 over Brakarz et al. in view of Schneider, as evidenced by Dobbs et al, the grounds of rejection state:

> Brakarz et al. discloses all of the features of the spray pump, including a pump (cylindrical-shaped body 3 and piston 7) and a dispensing head (pressing button 9) with a spray nozzle insert and a spray profile (atomizer insert 10), as discussed in column 3, lines 41-52 and shown in Figure 1. The pump (cylindrical-shaped body 3 and piston 7) has an initial dead stroke, actuating the pump starting only after the dispensing head has traveled over the dead stroke, as discussed in column 3, lines 14-40.
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> Brakarz et al. does not disclose a closure system including a closure element. Dobbs et al. disclose a spray device with similar spray components to Brakarz et al. Dobbs et al. disclose a sidewall portion (43) that scrapes a discharge orifice to clean it off between uses. Dobbs et al. evidences a need for pump sprayers to have a feature for scraping off the spray orifice.

> In the embodiment of Figures 2-4, 6, and 7, Schneider discloses a pasty fluid dispenser device comprising a fluid reservoir (storage chamber) with a pump (compression chamber 38) mounted to it. A dispensing head (pushbutton member 1) is mounted to the pump (compression chamber 29) to move between a rest position and a dispensing position, and it has a dispensing orifice (116). The device comprises a closure system (tubular guide portion 110) fixed to the reservoir (storage chamber) and it comprises a closure element (masking element 113) suitable for closing off the dispensing orifice (116) from the outside when the dispensing head (pushbutton member 1) is in the rest position. The closure system (tubular guide portion 110) is implemented in the form of a hollow sleeve disposed around the dispensing head. The hollow sleeve has, on one side, the closure element (masking element 113) disposed above the opening, and on another side, a cutout through which the dispensing head (pushbutton member 1) projects so that it can be actuated by the user, as discussed in column 6, lines 44-65. While the dispensing head (pushbutton member 1) is returning from its dispensing position to its rest position after the dispensing member has been actuated, the closure element (masking element 113) slides snugly over the zone situated around the dispensing orifice (116), so as to remove any trace of fluid at the dispensing orifice (116), as discussed in column 5, lines 23-32. The closure system (tubular guide portion 110) is snap-fastened to the neck of the reservoir, as shown in Figures 6 and[ ]7.
>
> It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the spray pump of Brakarz et al. with a closure system including a closure element, as taught by Schneider, in order to scrape off the dispensing orifice between uses, which a desirable function of spray devices, as evidenced by Dobbs et al.

Office Action at pages 2-4.

Responding to Applicant's response of December 22, 2004, the Examiner states:

> Applicant argues that claims 9 and 10 were not addressed in the previous Office Action. Although the limitations of claims 9 and 10 were included in the body of the rejection of the previous Office Action, Examiner is providing this final rejection properly listing claims 9 and 10.

> Applicant argues that the date of Siegel et al. is not sufficient to overcome the present application. Although the rejection of claims 1-8 and 10 does not hinge on Siegel et al. (since Siegel et al. is used to merely evidence that there is motivation to combine Brakarz et al. with Schneider), Siegel et al. has been replaced by Dobbs et al. in the rejection.
>
> Applicant argues that the dead stroke of the present invention is different from the dead stroke of Brakarz et al. However, the disclosure does not provide enough information about the dead stroke for one of ordinary skill in the art to gather that the dead stroke of present invention is different from the dead stroke of Brakarz et al. The specification and the original claims merely state that there is an initial dead stroke and that the dispensing member starts only after the dispensing head has traveled over a dead stroke. The dispenser of Brakarz et al. also requires an initial dead stroke for the dispensing member to start, since the pump must be primed. Claims 1-8 and 10 remain rejected.

Office Action at pages 4-5.

Claim 1 has been amended to clarify that spraying of the product starts only after the dispensing head has traveled over an initial dead stroke. This feature means that the dosing chamber (for instance the pump chamber) is necessarily filled with the product to be dispensed (which is generally a fluid) but not with air which can not be assimilated with such a product to be dispensed.

As explained in Applicant's specification (notably at page 5, lines 22-32) the fluid product is oxidizable as well as susceptible to drying when exposed to air, which may cause a partial or a total blocking of the dispensing orifice. Therefore, the fluid product itself cannot be air. One skilled in the art would readily understand the distinction between a priming step of a dispenser member and its normal operation. During normal operation of the device in

accordance with claim 1, the dispenser member has an initial dead stroke while containing product to be dispensed in the dosing chamber.

Applicant, once again, draws the Examiner's attention to the distinction that whereas claim 1 recites an initial dead stroke, (i.e., a predetermined distance), Brakarz (and the other references) start dispensing of the fluid when the applied force, that is an intensity, is sufficient. None of the cited references requires a displacement of the piston over a predetermined distance before dispensing starts.

Therefore, Brakarz does not teach or suggest an initial dead stroke as claimed so as to dispense product contained in the pump chamber only after an initial dead stroke.

New Claims

For additional claim coverage merited by the scope of the invention, Applicant is adding new claims 11-18, which are believed to be allowable at least by reason of their respective dependencies.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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